



June 15, 2018

Marlene H. Dortch, Esq.  
Secretary  
Federal Communications Commission  
445 12th Street SW  
Washington DC 20554

Re: Notice of Ex Parte Communication, MB Docket Nos. 17-289, 14-50, 09-182, 07-294, 04-256

Dear Ms. Dortch:

On Thursday, June 14, 2018, representatives of the National Association of Broadcasters (NAB) met with staff from the Media Bureau and Office of General Counsel to discuss the Commission's adoption of an incubator program to facilitate new entry and diversity in the broadcast industry. A list of meeting participants is attached.

During the meeting, NAB staff discussed the value of making the incubator program available as a path for entry into both the radio and television industries.<sup>1</sup> NAB believes there are qualified executives of diverse backgrounds who would like to own radio and television stations, and knows of no reason to exclude television stations from an incubator program.<sup>2</sup> Several commenters have endorsed inclusion of television stations in the program,<sup>3</sup> and we are not aware of any commenter who has urged the Commission to limit the incubator program to radio.

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<sup>1</sup> See NAB Comments in MB Docket Nos. 17-289 et al. (March 9, 2018) at 7, 8, 13, 14 (discussing application of the program to both radio and television); NAB Reply Comments in MB Docket Nos. 17-289 et al. (April 9, 2018) at 6-7 (discussing potential incentives for television broadcasters to participate); Letter to Marlene H. Dortch, FCC Secretary, from Rick Kaplan of NAB, MB Docket Nos. 17-289 et al. (April 25, 2018) at 4-5 (urging the FCC to find that an incubating station presumptively qualifies for a waiver of the TV rule's top-four restriction because of the significant public interest benefits of incubating a new entrant).

<sup>2</sup> Letter to Marlene H. Dortch, FCC Secretary, from Erin L. Dozier of NAB regarding meeting of DuJuan McCoy of Bayou City Broadcasting, LLC, MB Docket Nos. 17-289 et al. (June 7, 2018) at 2-3.

<sup>3</sup> See, e.g., Comments of the Federal Communications Commission's Advisory Committee on Diversity and Digital Empowerment: A Proposal For An Incubator Program, MB Docket No. 17-289 (April 1, 2018) at 46; Letter to Marlene H. Dortch, Secretary, FCC from Mark Fratrik of BIA Capital Strategies, LLC and BIA Advisory Services, MB Docket No. 17-289 (June 11, 2018); Letter to Marlene H. Dortch, Secretary, FCC from Lyle Banks of WGCL-TV, MB Docket No. 17-289 (June 6, 2018); Letter to Marlene H. Dortch, Secretary, FCC from W. Lawrence

NAB reiterated its support for the Commission's adoption of an effective incubator program that fulfills its purpose to promote new entry. To that end, we encouraged the Commission to include measures in the structure of the program,<sup>4</sup> including application and compliance processes,<sup>5</sup> that will foster public trust in the program. The Commission has a unique opportunity to foster increased ownership diversity, and developing a meaningful incubator program is a step in the right direction.

Respectfully submitted,



Rick Kaplan  
General Counsel and Executive Vice President  
Legal and Regulatory Affairs

cc: David Gossett, William Dever, William Scher, Sarah Whitesell, Brendan Holland,  
Radhika Karmarkar

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Patrick, Managing Partner, Patrick Communications, MB Docket No. 17-289 (June 4, 2018); Letter to Marlene H. Dortch, Secretary, FCC from DuJuan McCoy, President and CEO, Bayou City Broadcasting, LLC (May 22, 2018); Letter from Diane Sutter, President/CEO, ShootingStar Broadcasting, MB Docket No. 17-289 (May 18, 2018); Reply Comments of Gray Television, Inc., MB Docket No. 17-289 (April 9, 2018); Reply Comments of Meredith Corporation, MB Docket No. 17-289 (April 9, 2018).

<sup>4</sup> See, e.g., NAB Comments in MB Docket Nos. 17-289 et al. (March 9, 2018) at 7 (“the financial commitment of the established broadcaster should not, however, impede the incubated entity’s control of the station’s day-to-day operations, including decisions regarding personnel, programming and finances”); *id.* at 18-19 (an incubated entity should be required to certify that it has met the applicable thresholds to qualify as an incubated entity for at least one year prior to filing its incubation application “to ensure that the benefits of the program are awarded to parties that truly need financial and technical support”); Letter to Marlene H. Dortch, FCC Secretary, from Rick Kaplan of NAB, MB Docket Nos. 17-289 et al. (April 25, 2018) at 2 (NAB April 25 Ex Parte)(the incubated entity must maintain both de jure and de facto control of the incubated station).

<sup>5</sup> See, e.g., NAB April 25 Ex Parte at 3 (it would be reasonable for the FCC to include in an incubator application questions designed to assess the incubated entity’s independence, including questions about familial relationships, trust relationships, or business relationships outside the incubation relationship); Letter to Marlene H. Dortch, FCC Secretary, from Erin L. Dozier of NAB regarding meeting of DuJuan McCoy of Bayou City Broadcasting, LLC, MB Docket Nos. 17-289 et al. (June 7, 2018) at 2 (the FCC could require applicants to provide information about the incubated entity’s finances to assess whether it is making an adequate financial commitment to the incubated station).

## Meeting Participants

### **Office of General Counsel**

David Gossett

William Dever

William Scher

### **Media Bureau**

Sarah Whitesell

Brendan Holland

Radhika Karmarkar

### **NAB**

Rick Kaplan

Jerianne Timmerman

Erin Dozier

Antrell Tyson